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Transmitted via e-mail

March 2, 2012

Dr. Jack Scott, Chancellor California Community Colleges, Chancellor's Office 1102 Q Street, 4th Floor Sacramento, CA 95811

Dear Mr. Scott:

Final Report—Audit of California Community Colleges, Chancellor's Office, Proposition 1D Bond Funds

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of the California Community Colleges, Chancellor's Office's (Chancellor's Office) oversight of Proposition 1D bond funds.

The enclosed report is for your information and use. The Chancellor's Office's response to the report observations is incorporated into this final report. The Chancellor's Office agreed with our observations and we appreciate its willingness to implement corrective actions. The observations in our report are intended to assist management in improving its program. The report will be placed on our website.

A detailed Corrective Action Plan (CAP) addressing the observations and recommendations is due within 60 days from the date of the final report. The CAP should include milestones and target dates to correct all deficiencies.

We appreciate the assistance and cooperation of the Chancellor's Office staff. If you have any questions regarding this report, please contact Diana Antony, Manager, or Chikako Takagi-Galamba, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA Chief, Office of State Audits and Evaluations

Enclosure

cc: On following page

- cc: Mr. Erik Skinner, Executive Vice Chancellor, Programs, California Community Colleges, Chancellor's Office
 - Mr. Dan Troy, Vice Chancellor, Fiscal Policy, California Community Colleges, Chancellor's Office
 - Mr. Frederick E. Harris, Assistant Vice Chancellor, College Finance and Facilities Planning, California Community Colleges, Chancellor's Office
 - Mr. Peter Goldstein, Vice Chancellor, City College of San Francisco, Finance and Administration
 - Mr. John Bilmont, Chief Financial Officer, City College of San Francisco, Finance and Administration
 - Mr. Ric Jazaie, Internal Auditor, City College of San Francisco
 - Mr. David Liggett, Director, City College of San Francisco, Office of Facilities Planning and Construction
 - Mr. Joe Newmyer, Interim Assistant Superintendent/Vice President, Palomar College, Finance and Administrative Services
 - Ms. Phyllis Laderman, Director, Palomar College, Fiscal Services
 - Ms. Kelley Hudson-MacIsaac, Interim Director, Palomar College, Facilities Services
 - Ms. Jeanette Gordon, Chief Financial Officer, Los Angeles Community College District, District Administration
 - Mr. Thomas Hall, Director, Los Angeles Community College District, Facilities Planning and Development

An Audit of Bond Funds

California Community Colleges Chancellor's Office Proposition 1D



Source: Palomar Community College District

Prepared By:
Office of State Audits and Evaluations
Department of Finance

116870071 November 2011

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Final reports are available on our website at http://www.dof.ca.gov

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Executive Summary

In accordance with the Department of Finance's bond oversight responsibilities, we audited the California Community Colleges, Chancellor's Office's (Chancellor's Office) oversight of the Proposition 1D bond funding. Our audit objectives were to determine if (1) bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and (2) adequate monitoring processes are in place.

The Chancellor's Office has developed a three-part accountability structure for state bond funds and established several key fiscal controls over front-end accountability. There are sufficient policies and procedures in place for reviewing projects prior to commitment of funds. As a result, we focused on the Chancellor's Office's procedures related to in-progress and follow-up accountability for bond projects. Although the Chancellor's Office established the Facilities Planning Manual to provide guidance to community college districts in managing construction projects, we identified the following areas for improvement:

- Audits and oversight of state bond funded projects need improvement. The
 Chancellor's Office relies on local bond oversight activities and audits to meet the bond
 audit requirements; however, the Chancellor's Office does not track the extent of local
 audits performed.
- Based on our review of three college districts, local bond oversight is not consistently
 working as intended and may not provide adequate audit coverage of state bond
 funds. For example, several recent external audits and reviews of the Los Angeles
 Community College District (LACCD) bond program have reported significant
 deficiencies. Additionally, the City College of San Francisco (CCSF) does not
 consistently adhere to the state public contracting laws and Chancellor's Office
 guidelines governing bidding, contracting, and change orders.

We note that LACCD has formed an independent review panel, which includes a representative from the Chancellor's Office, to examine its bond program management and develop recommendations. In addition, CCSF intends to conduct an audit of their contract administration and construction management.

The issues described above, if unresolved, will continue to adversely affect the Chancellor's Office's ability to manage and monitor state bond funds. The Chancellor's Office should develop corrective action plans to resolve the observations and recommendations reported.

BACKGROUND

In November 2006, California voters passed Proposition 1D, the Kindergarten-University Public Education Facilities Bond Act of 2006. The Act authorized bonds totaling \$10.416 billion for educational facilities for kindergarten through 12th Grade Schools, California Community Colleges, California State University, and University of California. The California Community Colleges will receive \$1.507 billion to construct and renovate facilities to meet the demands of its growing student population, address seismic and safety needs, and renew outdated infrastructure.

Seismic/ \$40 M \$17 M

Facility
Modernization
\$320 M

Seismic/ \$40 M \$17 M

Enrollment
Growth
\$960 M

Figure 1: Proposition 1D Distribution (Figures in millions of dollars)

Source: California Strategic Growth Plan Bond Accountability website, www.bondaccountability.ca.gov

California Community Colleges

The California Community Colleges system is the largest higher education system in the nation. The system is comprised of 72 community college districts and 110 colleges, and enrolls more than 2.9 million students annually. Community colleges provide basic skills education, workforce training, and courses to prepare students to transfer to four-year universities. Community colleges also provide opportunities for personal enrichment and lifelong learning.

The California Community Colleges' Board of Governors (Board) sets system-wide policy and provides guidance. The 17-member Board is appointed by the Governor and formally interacts with state and federal officials and other state organizations. The Board selects a chancellor for the system. The chancellor, through a formal process of consultation, brings policy recommendations to the Board for approval.

The Chancellor's Office operates under the direction of the state chancellor who is accountable to the Board. The Chancellor's Office is charged with providing leadership, advocacy, and support of the community college districts. Serving as the system's administrative branch, the Chancellor's Office is also responsible for allocating state funding to the colleges and districts. The Facilities Planning Unit (FPU) within the Chancellor's Office provides assistance and support for the construction and remodeling of new campus and district buildings. Additionally, the FPU reviews and approves capital outlay plans as part of the grant application process.

The Fiscal Accountability Section at the Chancellor's Office is responsible for the Contracted District Audit Manual, ¹ resolution of audit citings, audits of various programs, fiscal reviews, receipt of audits of auxiliary organizations, and coordination of external auditors and other agencies. (Source: California Community Colleges)

SCOPE

In accordance with the Department of Finance's bond oversight responsibilities, we conducted an audit to determine whether Proposition 1D bond funds were awarded and expended in compliance with applicable legal requirements and established criteria; and to determine if the Chancellor's Office had adequate project monitoring and reporting processes in place.

The audit did not include an assessment of the bond authorization, issuance, or sale processes. Because the Fiscal Accountability Section has responsibility for overseeing audits of community colleges, our audit focused on determining if the Chancellor's Office's fiscal oversight, including the extent of audit coverage, was adequate. Accordingly, we did not perform a comprehensive review of project expenditures.

METHODOLOGY

To determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and whether adequate monitoring processes were in place, we performed the following procedures:

- Reviewed the applicable legal provisions, bond acts and regulations, policies, procedures, and program guidelines.
- Interviewed management and key staff responsible for administering bond funds to obtain an understanding of how the Chancellor's Office oversees the various project stages.
- Gained an understanding of construction audit procedures through interview of the Chancellor's Office staff and review of the Fiscal Accountability Section's Contracted District Audit Manual.

All community college districts are required to have an annual audit as specified in Education Code section 84040.5. Under California Code of Regulations, title 5, section 59106, all audit reports must be filed with the Chancellor's Office. The Fiscal Accountability Section provides guidance on the audit requirements and scope of the annual audits in the Contracted District Audit Manual.

- Reviewed the information reported on the Strategic Growth Plan Bond Accountability website.²
- Reviewed the administrative costs charged to bond funds for reasonableness.
- Performed site visits of three community college districts and conducted interviews of key district staff responsible for project management, monitoring, and close-out.
- Reviewed a sample of project files and accounting records.

Recommendations were developed based on review of documentation made available to us and interviews with the Chancellor's Office management and key staff directly responsible for administering bond funds. The audit was conducted from February 2011 through November 2011.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives

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² Bond accountability website address is: www.bondaccountability.ca.gov

In accordance with Governor's Executive Order S-02-07 and previously established fiscal policies, the California Community Colleges, Chancellor's Office (Chancellor's Office), has developed a three-part bond accountability structure for bond funds. The Chancellor's Office established several key fiscal controls over front-end accountability, and awards funds to college districts in compliance with applicable legal requirements and established criteria. As a result, we focused on procedures related to in-progress and follow-up accountability for bond projects. The Chancellor's Office established the Facilities Planning Manual to provide guidance to community college districts in managing construction projects. However, we identified the following areas for improvement:

Observation 1: Audits and Oversight Activities Need Improvement

The Executive Order requires audits of bond expenditures to determine whether they are consistent with all legal requirements and achieve intended outcomes. The Chancellor's Office relies on local bond oversight activities and audits to meet the Executive Order's audit requirements. Its bond accountably plan states, "The accountability procedures established by the passage of Proposition 39 substantially increase the accountability over Proposition 1D project because more than half the community projects partially financed with Proposition 1D monies are also partially financed with local general obligation bonds authorized by Proposition 39." The bond accountability plan also states that because the Local Citizen Oversight Committees review the progress of Proposition 39 funded projects, the committees are often verifying the progress of Proposition 1D projects.

However, based on our review, local bond oversight is not consistently working as intended and may not provide adequate audit coverage of state bond funds. Further, the Chancellor's Office does not track the extent of oversight activities and audits performed at the local level.

Local Citizen Oversight Committees (LCOC). Based on our review of three districts, we noted the LCOCs did not regularly meet or produce annual reports as required (see text box). For example, the LCOC for the City College of San Francisco has not regularly met during the past 2 years. The LCOC for the Los Angeles Community College District (LACCD) did not produce annual reports on its activities for two of the four fiscal years 2006-07 through 2009-10. Additionally, as noted in Observation 2,

LACCD's local oversight needs significant improvement.

Proposition 39 Local Citizen Oversight Committee Responsibilities

As a condition of issuing bonds under Proposition 39, each school district or community college is required to form the independent local citizen oversight committee (LCOC). LCOCs have broad responsibilities over local general obligation bonds issued under Proposition 39, including:

- Actively review and report on the proper expenditures of taxpayers' money for school construction
- Receive and review annual independent financial and performance audits of locally funded capital outlay projects
- Issue regular reports on its activities at least annually

Source: Education Code sections 15278 and 15280

Further, recent external reviews of local bond oversight have noted significant deficiencies. The State Controller's Office (SCO) issued audit reports for two local college districts in 2008 and 2011³. Both audit reports stated the LCOC's oversight was inadequate.

- Proposition 39 Audits. The Chancellor's Office does not track the extent of oversight activities and audits performed at the local level.
 Specifically, the Chancellor's Office does not track which districts have LCOCs and which projects were audited under Proposition 39.
- Audit Scope Variances. Although all three
 districts included in our site visits completed
 Proposition 39 audits, the audit scope varied
 considerably; two of the district Proposition 39
 audits included a review of internal controls over
 construction management, while the other
 district audit had no such review. As a result,

Proposition 39 Audits

As part of Proposition 39, school districts or community colleges are required to annually have independent financial and performance audits of local bond proceeds to:

- Determine bond proceeds have been expended for school facility projects
- Ensure the funds have been expended only on the specific projects listed and for no other purposes

Source: Education Code section 15272 and California Constitution Article 13A, section (b) (3)

relying on Proposition 39 audits may not assure adequate audit coverage of state bond funded projects.

State Funded Projects. According to the Chancellor's Office, there are 8 districts without local general obligation bonds. Of these 8 districts, 3 districts received 100 percent state bond funding for their projects. See Table 1 below. Because these projects received no local funding and the districts have not passed local general obligation bonds, the projects totaling over \$41 million are not subject to Proposition 39 oversight or audits; therefore, the Chancellor's Office cannot rely on local oversight for these projects.

Table 1: Projects Fully Funded by Proposition 1D

District	Campus	Project	Prop 1D Funding
Feather River	Feather River	Learning Resource Center and Technology Building	\$9,955,000
Mt. San Jacinto	Menifee Valley Center	General Classroom Building	\$14,067,000
San Luis Obispo	North County Center	North County Learning Center/Library	\$17,266,000
		Total	\$41,288,000

Source: Chancellor's Office Facilities Planning Unit

Annual District Audits Do Not Include State Bond Funded Projects. Districts are required
to submit annual financial and compliance audit reports to the Chancellor's Office. The
Fiscal Accountability Section provides audit requirements and scope guidance via the
Contracted District Audit Manual (CDAM). The audit scope does not include a review of
state bond funded projects to ensure bond expenditures are consistent with state
requirements.

San Joaquin Delta College, Audit Report Measure L and Proposition 1D Bond Proceeds, November 2008, State Controller's Office. Los Angeles Community College District, Audit Report Proposition A/AA and Measure J Bond Expenditures, August 2011, State Controller's Office.

Additionally, the Fiscal Accountability Section maintains a database to keep track of audit findings and sends letters requesting districts to provide corrective actions for repeat audit findings. However, there is no formal process to ensure districts take timely corrective action for material and repeat findings.

Recommendations:

The Chancellor's Office should develop processes and procedures to ensure adequate oversight and audit of state bond funds. Specifically, the Chancellor's Office should:

- Review LCOCs' annual activity reports and determine if these committees actively review project progress.
- B. Track districts' Proposition 39 audits performed and the audit findings identified. Identify high risk districts based on this information and other risk characteristics. Risk characteristics may include amount of bond funding appropriated to the district, the number and size of capital projects, repeat audit findings, prior compliance issues, etc. Closely monitor those high-risk districts to ensure they take proper corrective actions.
- C. Strengthen the procedures for resolution of audit findings and recommendations, including requiring corrective action plans for material and repeat findings. For high-risk districts and/or those districts that have not timely implemented corrective actions, the Chancellor's Office should consider these issues during subsequent project selection and awarding phases.
- D. For projects not covered by other audits, develop a process to ensure bond expenditures are consistent with state requirements and achieve the intended outcomes.

Observation 2: Bond Program Oversight by Los Angeles Community College District Needs Improvement

LACCD contracts with BuildLACCD⁴, a program management team, to manage its general obligation bond construction projects.

BuildLACCD performs numerous functions for LACCD's bond program, including developing policies and procedures for the bond construction program, program management, and accounting and invoice processing. Additionally, each campus uses a contracted project manager to manage projects during the construction phase.

We noted several recent audits and reviews that reported significant deficiencies in LACCD's bond construction program. As a result, we followed-up and reviewed the current status of these findings and recommendations. See Attachment A for a summary.

Los Angeles Community College District Bond Construction Program

The Los Angeles Community College District (LACCD) bond construction program provides funding for the district's nine campuses to build and renovate academic buildings and other campus facilities.

The program is funded by local bond measures with additional funding from the state. Local bond measures (Propositions A, AA, and J) and state Proposition 1D provided the total authorized bond funds of \$5.725 billion.

Of the \$1.507 billion Proposition 1D funding allocated to California Community Colleges, \$147.5 million has been appropriated to LACCD.

Source: Los Angeles Community College District Website and Strategic Growth Bond Accountability Website

⁴ In March 2007, LACCD awarded the contract for program management services to URS Corporation. BuildLACCD consists of URS and subcontractors to URS.

Based on our review and follow-up, we found LACCD did not clearly delineate the roles and responsibilities of parties involved in taking corrective actions, as follows:

- LACCD does not have a formal written plan detailing the allocation of project costs and program management fees. BuildLACCD is currently working on finalizing these plans; however, LACCD has not been involved in the process and is not aware of the progress of the plans. Without a cost allocation plan, there is an increased risk of loss or misuse of public funds.
- A repeat audit finding regarding inadequate tracking of state reimbursements has not been addressed by LACCD. The audit finding was identified in a 2008-09 Proposition 39 audit. During interviews we found LACCD is under the assumption the audit finding is being addressed by BuildLACCD. We contacted BuildLACCD and were told LACCD was reviewing the finding. As a result of neither party taking responsibility, the audit finding remains unresolved. See Attachment A for the specific finding and recommendation.
- LACCD contracted with Capstone Advisory Group to conduct an organizational review of the bond program. On March 10, 2010, Capstone Advisory Group issued a memo titled "Recommendations." This memo included a number of significant issues within the LACCD's bond program. The Inspector General (IG) for LACCD has been directed to correct these issues; however, due to privacy concerns, the IG would not provide us with corrective action plans. We requested the LACCD's district office to provide information regarding these issues; however, it was unaware of the status of any corrective actions. The extent of corrective actions taken is unknown. See Attachment A for a summary of Capstone Advisory Group's recommendations.

The California Community Colleges Facility Planning Manual (FPM), section 6.3, states: "The tight coordination and cooperation of the project management team is essential to the success of the project. All team members should have clear responsibilities and the authority, information, resources, and time to fulfill those responsibilities."

Additionally, in August 2011, the SCO completed an audit of LACCD's bond construction program. The SCO audit found LACCD did not provide adequate oversight for the colleges' spending practices. See Attachment A for a summary of SCO audit results. As previously noted, LACCD was appropriated \$147.5 million, or 10 percent, of the \$1.5 billion Proposition 1D funds allocated to all community colleges. State bond funds and local bond funds are used in conjunction to fund college capital projects.

As the recipient of state bond funding, LACCD is ultimately responsible for overall fiscal policies and controls to ensure the above issues are addressed and corrected. Further, as administrator of Proposition 1D funding, the Chancellor's Office is responsible for ensuring bond proceeds are expended in compliance with applicable criteria, and adequate monitoring processes are in place. LACCD has formed an independent Review Panel to examine its bond program management. A representative from the Chancellor's Office is serving on the 10-member Review Panel. According to the Chancellor's Office, they maintain ongoing communication with LACCD and are involved in developing recommendations to improve its bond construction program.

Recommendations:

A. LACCD should:

- Improve communication with BuildLACCD to ensure better coordination and oversight.
- Take ownership of the cost allocation plan and ensure completion of the plan.
- Take a more proactive role to expeditiously address audit findings and recommendations.
- Continue to work with the Review Panel to improve program operations and ensure accountability.
- B. The Chancellor's Office should continue to provide guidance to ensure success of LACCD's bond construction program.

Observation 3: Contracting Criteria Not Always Followed by City College of San Francisco

We observed issues specific to the City College of San Francisco (CCSF). The FPM and state Public Contract Code provide guidance to districts regarding bidding, contracting, and change order requirements. We noted the following contracting weaknesses requiring corrective action:

- Two CCSF state bond funded projects lacked sufficient budget information in the contracts. According to the FPM, section 8.4, contract documents should include the contract, the terms and conditions of the contract, and the drawings and specifications. The contracts for each project referenced an attachment describing the basis for the project Guaranteed Maximum Price (GMP); however, CCSF was unable to provide the attachment. Additionally, CCSF started the site construction without establishing the GMP. In the meantime, construction on each project was ongoing with the district processing contractor payment applications.
- CCSF could not provide bidding documents for the construction manager for the same two projects. The Public Contract Code, section 20651 (b), and FPM, section 8.1, require a competitive bidding process when awarding a contract for work involving more than \$15,000. Because the bidding documents were unavailable, it is uncertain if CCSF adhered to these requirements.
- CCSF's change order procedures are inconsistent with FPM guidelines. The FPM, section 9.7, states the total amount of change orders should be kept within the amount of the construction contingency and should not involve changes in the scope of the project. Contractor payment applications for one of the noted CCSF projects were all identified as "change orders" due to the lack of GMP as described above. CCSF defines the term "change order" as a change in work, adjustment in contract sum, or an adjustment of the contract time. As a result, there were 13 contract adjustments in the amount of \$47 million.

CCSF has identified risks related to contract administration and construction management in its Risk Assessment and Internal Audit Plan and intends to conduct an audit to address the risks.

Recommendations:

To protect state bond funds from loss or misuse:

- A. CCSF should continue its efforts to improve controls over contract administration and construction management by following state contracting laws and Chancellor's Office guidelines.
- B. The Chancellor's Office should closely monitor implementation of CCSF's corrective actions.

Observation 4: Inaccurate Project Reporting On the Bond Accountability Website

The Chancellor's Office does not regularly reconcile project information reported on the Strategic Growth Plan Bond Accountability Website (website) with internal fiscal and accounting records. Consequently, as of the date of this audit, total committed project funds per the summary data chart on the website do not agree with the corresponding project detail information on the same website; there is a difference of \$16.8 million.

Recommendation:

A. Reconcile project information on the bond accountability website to internal fiscal and accounting records and adjust the website amounts as needed.

ATTACHMENT A Los Angeles Community College District Other Audits and Special Reviews

The following findings and recommendations are excerpts from other audits and special reviews of Los Angeles Community College District (LACCD). We reviewed the current status of these findings and recommendations. Results are provided as follows.

Organizational and Operational Analysis of the Bond Construction Program, March 2010 Conducted by Capstone Advisory Group				
Recommendation	Review of Current Status			
Create an Office of Inspector General, bond construction program	Completed			
Implement a formal whistleblower complaint plan	Completed			
Provide independent guidance to the board	Undetermined			
Implement mandatory conflict of interest statements for all staff involved in the bond program	Undetermined			
Implement a Supplier Code of Conduct for all current and future contractors to the bond program	Undetermined			
Conduct a full review of submitted expenses	Undetermined			
Implement new controls on allowable expenses	Completed			
Complete a BuildLACCD staff analysis	Undetermined			
Develop a clear explanation of the benefits provided to program management staff	Undetermined			
Create a human resources function within the BuildLACCD program	Undetermined			
Conduct a fraud risk assessment of the bond program	Undetermined			

Source: Capstone Advisory Group, "Recommendations-Organizational and Operational Analysis" dated March 10, 2010.

Proposition A/AA and Measure J Bond Program Performance Audit, January 2011 Conducted by Moss Adams LLP **Repeat Finding** Review of Recommendation **Current Status** BuildLACCD did not record a receivable for BuildLACCD should develop a method of tracking state Not resolved expected state reimbursements and did not reimbursements and should make monthly adjustments to its records based on the actual reimbursements received. record amounts received from the state against the receivable. They also did not track on a monthly basis whether the state had reimbursed less than the expected amount.

Source: Moss Adams LLP, "Los Angeles Community College District Proposition A/AA and Measure J Bond Program Performance Audit" for fiscal years ended June 30, 2009 and 2010.

Proposition A/AA and Measure J Bond Expenditure Audit, August 2011 Conducted By The State Controller's Office					
Finding	Recommendation	Review of Current Status			
Finding 1: LACCD utilized \$42.6 Million in Measure J Bond funds for projects and activities not included on the approved project list.	 Adopt policies and procedures to ensure bond proceeds are spent in accordance with the intent of voters as specified in the bond measures. Clearly document, and make available to the public, its rationale or basis for any material deviation from the project list included in the ballot measure approved by the voters 	No review performed; the report was issued after the completion of our site visit			
 Finding 2: LACCD did not provide adequate oversight on the spending practices of the colleges as follows: LACCD does not have appropriate control measures to oversee and monitor the colleges' bond program spending. LACCD management was only involved in the decision to allocate bond funds amongst the colleges. 	 LACCD should: Develop a Facilities Master Plan with associated costs that are documented and available to the public. Suspend use of any unobligated bond funds until a Master Plan is fully developed and approved. Establish a process to closely monitor the college campuses' spending practices by using an approved district-wide Facilities Master Plan. 	See above			

Finding	Recommendation	Review of Current Status
Finding 3: LACCD ignored its internal procurement rules and guidelines in the selection of the Inspector General which, at least in appearance, compromised the integrity of the Inspector General to carry out the essential functions of the office.	 The LACCD Board of Trustees and the LACCD Chancellor should: Adopt control measures to ensure procurement of special and professional services by fully complying with internal rules and guidelines. Develop documentation requirements for the evaluation and selection of bidders. Adopt other measures to provide transparency and accountability in procurement of special and professional services as well as for other services. Request an independent investigation into the process and circumstances that led to the selection of the Inspector General and take appropriate administrative or legal actions. 	See above
Finding 4: Oversight by the Citizens Oversight Committees was passive, perfunctory, and ineffective.	 The Board of Trustees should review the College Citizens Oversight Committee (CCOC) and District Citizens Oversight Committee bylaws to ensure compliance with statutory requirements, and verify that the committees are using their authority and responsibility diligently, as well as have appropriate bylaws that allow them this authority and responsibility. In addition, the CCOC should ensure that bond moneys are spent appropriately. The Legislature should adopt legislation to improve accountability and transparency over the use of bond funds by more clearly delineating the role and responsibilities of the citizens' oversight committees and provide the committees greater independence from the colleges' governing bodies. 	See above
Observation: LACCD continues to expand campus facilities without empirical data to demonstrate it has a variable source of revenues to operate the expanded facilities.	LACCD should develop formal policies and procedures for accounting for operating costs, including staffing, for new construction. In addition, they should document projected savings due to energy efficiencies and determine if this is sufficient to cover additional operating costs.	See above

Source: The State Controller's Office, "Proposition A/AA and Measure J Expenditure Audit", dated August 2011.

Response

The California Community Colleges, Chancellor's Office's response to the draft audit report has been reviewed and incorporated into the final report.

The summary of the Independent Review Panel Report referenced in the response is included as an attachment. The full report is available at the following Los Angeles Community College District's website: http://www.laccd.edu/news/documents/BPRP%20Report.pdf.

All other attachments referenced in the response have been omitted in the interest of brevity.

CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE

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February 15, 2012

David Botelho, CPA Chief, Office of State Audits and Evaluations Department of Finance 915 L Street Sacramento, CA 95814

Dear Mr. Botelho:

Thank you for the opportunity to respond to the Office of State Audits and Evaluations (OSAE) Report No. 116870071, *An Audit of Bond Funds, California Community Colleges, Chancellor's Office, Proposition 1D.* The audit focused on the Chancellor's Office oversight of Proposition 1D bond fund expenditures at our system's 72 districts and 112 colleges. The audit was required pursuant to Governor's Executive Order 02-07, and item 6870-001-6049, Budget Act of 2011.

The Chancellor's Office has reviewed the audit and its recommendations as presented in Report No. 116870071. In conjunction with the districts, we will take appropriate actions to address the OSAE's recommendations as discussed below.

Observation 1: Audits and Oversight Activities Need Improvement

Recommendations:

The Chancellor's Office should develop processes and procedures to ensure adequate oversight and audit of state bond funds. Specifically, the Chancellor's Office should:

A. Review Local Citizen Oversight Committees (LCOC) annual activity reports and determine if these committees actively review project progress.

Response: *Agree.* The Chancellor's Office has already begun corrective action on this recommendation by obtaining from districts their LCOC annual activity report for their 2010-11 Proposition 39 local bond expenditures. We anticipate collection and review of these reports to gauge the degree of project review progress to be completed by May 1, 2012. We will continue to collect and review these reports in subsequent years.

B. Track districts' Proposition 39 audits and findings identified. Identify high risk districts based on this information and other risk characteristics. Risk characteristics

may include amount of bond funding appropriated to the district, the number and size of capital projects, repeat audit findings, prior compliance issues, etc. Closely monitor those high-risk districts to ensure they take proper corrective actions.

Response: Agree. The Chancellor's Office has already begun to implement this recommendation by obtaining copies of districts' Proposition 39 financial and performance audits for 2010-11. We will enter findings from those audits into our Contracted District Audit database. We will review those findings along with other findings that may have been identified in districts' annual financial or other audits impacting their construction programs. If high risk districts emerge after our review, a corrective action plan that addresses any material or repeat audit findings or other compliance issues will be developed with that district and monitored by us for completion.

C. Strengthen the procedures for resolution of audit findings and recommendations, including requiring corrective action plans for material and repeat findings. For high-risk districts and/or those districts that have not timely implemented corrective actions, the Chancellor's Office should consider these issues during subsequent project selection and awarding phases.

Response: Agree. Based on the procedures outlined in the previous response, if the Chancellor's Office determines a district is a high risk district, corrective actions will need to have been instituted by the district before state funding consideration will be given to them for future projects.

D. For projects not covered by other audits, develop a process to ensure bond expenditures are consistent with state requirements and achieve the intended outcomes.

Response: Agree. As previously discussed, the Chancellor's Office has begun corrective action to address these recommendations by revising our procedures so that all findings from the various audits involving capital outlay projects will be reviewed and resolved. Additionally, the Chancellor's Office will continue to review districts' Quarterly Reports for all Proposition 1D projects to ensure bond expenditures are consistent with state requirements and achieve the intended outcomes. Sampling of state capital outlay projects will be developed as a new State Compliance Test in the Contracted District Audit Manual.

Please keep in mind these corrective actions are in addition to several levels of scope review, payment approvals and internal reconciliation and auditing of expenditures already performed by the Chancellor's Office, the Department of Finance, the Division of the State Architect, and community college districts to ensure bond expenditures are compliant with state requirements, including:

- Preliminary plans are approved by the Chancellor's Office and the Department of Finance to ensure compliance with legislative intent regarding scope and cost;
- The working drawings and project specifications are approved and stamped by the Division of the State Architect (DSA) to assure compliance with state building code;
- The DSA stamped workings drawings are approved by the Chancellor's Office and Department of Finance to ensure compliance with legislative intent regarding scope and cost;
- 4) The district uses the approved plans and specifications to solicit bids on the project;
 - a. The district is required to submit any addenda (i.e., changes to the plans and specifications) to the Chancellor's Office for approval
 - b. The district's legal counsel is responsible for ensuring compliance with state contract law.
- 5) The district receives permission to award the bid from its local Board of Trustees, the Chancellor's Office, and the Department of Finance.
- 6) As the project is under construction, a variety of actions are taken by districts to ensure compliance with scope, cost and programmatic outcomes, including:
 - a. Systems are in place for approval of payments at several levels, reconciliation and internal auditing of expenditures, and inclusion of capital outlay projects in the Annual Audit by an independent auditor.
 - Weekly construction meeting are held to discuss project scope, calendar and costs to ensure that the project is meeting its intended outcomes.
 - c. Weekly activity reports are prepared by the architect for each project. These reports are very comprehensive and include information regarding any changes on the project, construction issues, calendar, and costs.
 - d. On a regular basis districts will meet with the architects to discuss any project issues, calendar, and costs.

Observation 2: Bond Program Oversight by Los Angeles Community College District Needs Improvement

Recommendations:

A. The Los Angeles Community College District (LACCD) should:

 Improve communication with Build LACCD to ensure better coordination and oversight.

LACCD Response: *Agree.* The LACCD has made significant management and leadership changes in order to ensure better coordination and oversight in its bond construction program. Some of the actions include:

- New controls on allowable expenses were adopted in September 2010, after extensive discussions with the performance auditor and bond counsel. (Attachment 2, Cost Principles).
- The Board of Trustees modified its meeting structure in April 2011 to dedicate one of its meetings each month to the Building Program.
- Chancellor LaVista commissioned an independent review panel to assess the program in the Spring of 2011.
- In the Fall of 2011, Hill International was awarded a contract to review the program management function. That report is expected to be presented to the Board in the spring of 2012.
- The district's Office of Inspector General (OIG) completed its Fraud Risk Assessment in November 2011, which is available on its website. (Attachment 3, Fraud Risk Assessment)
- The OIG's office developed a conflict of interest disclosure form that will be released by the end of January 2012. (Attachment 4, Disclosure Form).
- Take ownership of the cost allocation plan and ensure completion of the plan.

LACCD Response: *Agree.* LACCD has had formal plans detailing the allocation of costs and fees since the inception of its program in 2001. These were documented in numerous Facility Master Plans approved by its Board of Trustees, and Project Lists prepared prior to and after passage of the three bond issues that occurred over a period of seven years. The material detailed the construction costs and more than a dozen, related soft-cost categories for each of the hundreds of projects planned.

We assume this proposed corrective action refers to a State Controllers Audit finding in Attachment A of the audit, which had a fundamental disagreement with LACCD's strongly-held participatory governance approach giving each of its nine colleges discretion in the use of its lump sum allocation. LACCD is a district of nine colleges that do not function as satellites of a central district, but rather as academically self-contained, individually accredited entities, with their own educational focus and curriculum. LACCD's approach tasked each college with developing a prioritized list of projects based on its curriculum and facilities needs, which became the basis for a lump sum budget that could not be exceeded by the colleges.

Over time the colleges revised the scope or list of projects to be accomplished within their lump sum allocations as market or educational requirements changed, regulatory (EIR, ADA, etc.) requirements were mandated, or more funds became available from various sources. In 2011, recognizing that the program had reached a stage where these types of changes would be considerably less frequent, and following recommendations of program management and the SCO, the LACCD took action to adopt a consolidated Master Budget Plan ("Plan"). That Plan, which was formally adopted by the Board, aggregates all project and other program costs into a single document totaling to the \$6.2 billion of current funding available, and fixes budget amounts at the project level, rather than the previous college allocation that had been in effect to date.

Additional controls were also put in place that required any subsequent transfer of funds between projects at the colleges be approved by the district, and depending on the amount and reason, includes the Chancellor or the Board. Since August 2011, LACCD has been reporting progress updates against the approved Master Budget Plan in its monthly "Dashboard" reports that are available to anyone working on the program or in the general public at two website locations:

www.laccdbuildsgreen.org

or

www.build-laccd.org/bidding and contracting.

 Take a more proactive role to expeditiously address audit findings and recommendations.

LACCD Response: *Agree*. Past Performance Audit reports from fiscal years ending 2005 to 2010 indicate that a total of 116 issues or findings were identified. As of the last completed performance audit ending June 30, 2010, 114 have been reported as closed with the 2 remaining in progress. These figures express proactive and timely actions by LACCD and its program management team to resolve any audit findings and implement audit recommendations. When asked by the Board of Trustees to compare the LACCD Building Program to other similar programs, the performance auditor commended the team for being proactive in resolving open issues, and for its willingness to improve and correct issues, along with the timely closure of open items from prior year audits. In the last performance audit report, Moss Adams went on to cite several best practices introduced by LACCD, such as the development of the Program "Touchpoints" Handbook procedures guide; implementation of Estimate at Completion (EAC) providing a realistic projection of project costs; creation

of intranet tool "Widget" to view and print consolidated project costs and schedule reports; implementation of program schedule milestones to manage schedules; and the enhanced tracking, processing and payment of invoices.

In addition, the LACCD has continued to meet its legal obligations for a financial and performance audit of all three measures every year.

 Continue to work with the Review Panel to improve program operations and ensure accountability.

> **LACCD Response:** *Agree.* The district is pursuing several different tasks to improve program operations and ensure accountability. In October 2011, Chancellor LaVista imposed a temporary moratorium on new projects in order to assess the short and long-term budgetary considerations associated with the LACCD Building Program. The moratorium was expanded and extended in order to give due consideration to the complexities of LACCD's building program, including state-level funding formulas and increasing funding shortfalls. The LACCD will be undertaking its own self-study in this period to ensure the appropriateness and viability of construction projects. The Review Panel Report was released in early January, and the Panel's Chair presented the report to the Board of Trustees formally on January 25, 2012. Chancellor LaVista is discussing the report with various constituencies in keeping with the statutorily mandated expectations of collegial consultation, and will report back to the Board regarding the recommendations. The Review Panel's report is included as an attachment to this response letter for reference.

B. The Chancellor's Office should continue to provide guidance to ensure success of LACCD's bond construction program.

Response: Agree. The Chancellor's Office will continue to work with LACCD to ensure success of that district's bond construction program. We already provide direct oversight of authorized state funded capital outlay projects through the approval of preliminary plans before funds are released, approval of working drawings before funds are released, approval of construction documents before funds are released (i.e. approve proceed to bid and bid award), and release and approval of equipment funds. Further, we review project financial information on state funded projects to oversee their budgets, encumbrances, change orders, and expenditures on a quarterly basis (Quarterly Reports). We will also take a keen interest as the various improvements to the LACCD bond construction program currently being proposed are implemented by the district, and will provide any additional technical assistance for that effort as needed.

Observation 3: Contracting Criteria Not Always Followed by City College of San Francisco

Recommendations:

- A. City College of San Francisco (CCSF) should:
 - Continue its efforts to improve controls over contract administration and construction management by following state contracting laws and Chancellor's Office guidelines governing bidding, contracting, and change orders to protect state bond funds from loss or misuse.

CCSF Response: *Agree.* The district will continue to follow all state contracting laws and Chancellor's Office guidelines.

 Continue its efforts to improve controls over contract administration and construction management.

CCSF Response: Agree.

B. The Chancellor's Office should closely monitor implementation of CCSF's corrective actions.

Response: Agree. The Chancellor's Office will conduct quarterly reviews of ongoing CCSF state-funded construction projects. We will also request verification from the district in the future that construction contracts have been reviewed for compliance with current contract law by the district's third party legal counsel and will request that copies of executed construction contracts be forwarded to the Chancellor's Office prior to any Notice to Proceed being issued.

Further responses by CCSF to comments made in the audit:

The CCSF agrees with the Department of Finance's recommendation and would like to add the following comments:

With respect to observation 3, for each project, the Guaranteed Maximum Price (GMP) was not agreed to until after sufficient sub-contracts were bid, approved by the Chancellor's Office and the Department of Finance, and novated to the Construction Manager/General Contractor (CM/GC). The district is working with legal counsel and the Chancellor's Office to accelerate this process in the future. The district notes that the Joint Use Facility was completed within the approved budget and that the Chinatown North Beach Campus project currently under construction is on budget.

In addition, the district has taken additional steps to ensure that all related bid documents are retained in accordance with regulatory requirements.

Finally, prior to fall 2009 on advice of legal counsel the district used the term "change order" for contract amendments that were actually sub-contractor bids novated to the CM/GC contract. The district no longer uses that term for these types of sub-contracts, and instead uses the terms contract amendment and contract novation to more accurately reflect the assignment of sub-contracts to the CM/GC. Performance audits conducted by our external auditors over the past two years also confirm the use of the corrected terms.

Observation 4: Inaccurate Project Reporting On the Bond Accountability Website

Recommendation:

A. Reconcile project information on the bond accountability website to internal fiscal and accounting records and adjust the website amounts as needed.

Response: Agree. The Chancellor's Office agrees that at the time of this audit, (March 2011) a discrepancy existed on our bond accountability website that resulted in a \$16.8 million error. We found that certain projects did not upload correctly to the website in the December 2010 update. The problem was resolved in April 2011 and the data continues to be accurate. The website will be updated twice annually as required.

Again, thank you for the opportunity to respond to these audit findings. We look forward to work with your office to continuously improve our system's and the state's bond accountability. If you have any further questions or comments, please don't hesitate to get in touch with me or with Assistant Vice Chancellor Frederick E. Harris at 916-324-9508 or frederick E. Harris at 916-9508 or frederick E. Harris at 916-9508 or frederick E. Harris at 916-9508 or <a href="mailto:frederic

Sincerely,

Original signed by:

Dan Troy Vice Chancellor for Fiscal Policy

ATTACHMENT SUMMARY OF THE INDEPENDENT REVIEW PANEL'S RECOMMENDATIONS

Summary of the Independent Review Panel's Recommendations

Impose a Moratorium on New Projects and Board Directives.

- a. The District should impose a moratorium on all new construction projects that have not yet been awarded to permit the hiring of a new Facilities Executive and the implementation of any recommended changes to the Building Program the Board deems appropriate. The Panel notes that Chancellor LaVista recently issued a (short term) moratorium and the Panel supports that action.
- **b.** The Board should also not issue directives regarding the Building Program as has been done in past years. These directives have caused significant confusion within the Building Program. Going forward, the Board should "review and approve or not approve." The Board should not attempt to implement changes to the Building Program by issuing directives.
- c. Doing both of the foregoing will provide a sufficient window of time for the Chancellor and the Board to review and evaluate the Panel's Recommendations, as well as the findings and recommendations of other third parties. Thereafter the Board can determine which recommendations should be implemented in a comprehensive fashion and rolled out simultaneously to see the Building Program through to a successful conclusion.

<u>Planning and Control: Modify the Building Program Management Structure to a more Centralized Model.</u>

a. Institute more and tighter controls at the District level over the scope and budget and any changes thereto for every project District wide. Each project's scope and budget should be initially approved at the District level and "locked in", meaning that changes to either cannot be made at the college level unless within a specified dollar percentage established at the

District level and/or unless a requested change above the established percentage is approved by the Board of Trustees. Recently such an approach has been implemented. However, it should be formalized along the lines recommended in this Report. Each college President, College Project Manager, and the Program Manager should be held accountable to meet these requirements. Each college president, College Project Manager, and the Program Manager should be evaluated based upon their ability to maintain established project budgets and schedules.

- **b.** Clarify and articulate specific management responsibility for all areas of the Building Program. Focus particularly on upstream responsibility for changes and changed circumstances. Ensure accountability at all levels. Note: It appears that the District has recently introduced a "Build LACCD Key Personnel, Sub-consultants and Staffing Plan" in draft form. The Panel recommends that this document be finalized as a first step in clarifying responsibilities.
- c. The District should conduct an additional management best practices survey of complex public or private government building programs, for example transportation (light rail or highway/construction projects), L.A. Live, or Los Angeles Unified School District's Bond Program, before tightening up its overall management structure.

Program Cost at Completion and Program Reserve.

a. The District should have the Program Manager review the Building Program's reserve account(s) to determine if adequate funds will be in place at the District level as the Building Program reaches a conclusion. If the reserve is not sufficient, the District should have the Program Manager review and suggest reprioritising or recalling budgeted District bond funds from the colleges based upon criteria such as overbuilding, extra ordinary scope changes, timing, anticipated shortfalls, or mismanagement. Based thereon, the District can then prepare recommendations to the Board regarding assessing the colleges to return bond funds to the central program (District) level. Funds associated with work not started may have to be recouped to the central program level to pay for potential program wide costs. If the shortfall in

costs does not occur, and there remain reserve funds on hand at the District level that are no longer needed, then such monies can be returned to the colleges on a District determined prioritized need basis to be used if consistent with Proposition 39 mandates.

b. There are a number of both campus and satellite facilities planned, but for which little work has been done. The District should have the Program Manager conduct an assessment of enrollment to see if projections used in the planning have been achieved and whether enrollment has risen to the level predicted. If enrollment projections for the construction of these projects do not justify their construction, then the projects should be put on hold until supported by enrollment projections. Also, there should be confirmation of projected bond resources to construct the facilities and demonstration that the District's general fund revenues can support the operation and maintenance of such new facilities. In summary enrollment plans should be updated, facility plans should be adjusted accordingly, and decisions then made based upon such adjusted and updated data.

Audit and Update to Financial Reporting.

a. The District comptroller and the Program Manager should be required to perform and reconcile separate audits to insure that all obligations and expenditures related to Proposition 39 bond funds reflected in the District's financial system are also recorded in the BuildLACCD financial system. This requirement will be crucial several years from now as the Building Program winds down to avoid funds being shown as unaccounted.

Change Orders: What the Data Suggests

a. The Panel recommends improving the system now being used by refining it and establishing reporting criteria and parameters as suggested in this Report. Specifically, the District should ensure that

all change orders on every project at each college campus are coded, tracked and reported up the chain to the District level. The Program Manager should have verification and reporting responsibility up the chain to the District Executive Facilities Director and the Chancellor regarding change order frequency, amounts, and whether the established per project "ceiling" limits are close to being reached or have been exceeded.

- **b.** The District's Office of General Counsel should review its interpretation of the Design Bid Build (competitively bid contracts) change order rate/percentage limitation. Other large agencies do not make such a restrictive interpretation of Public Contract Code section 20659. If the restrictive interpretation does not change, then the Design Bid Build method should be used less (versus the Design-Build delivery method) unless the former is specifically approved by the Board due to its current lack of flexibility.
- **c.** The District should enlist the help of the State Community College Chancellor's Office to seek legislative relief asking that a subsection similar to Public Contract Code section 20118.4 (b) (applicable to K-12 construction contracts) be added to Public Contract Code section 20659 for all community college districts.
- **d.** The District's Office of Inspector General should audit all Design Build projects (completed and/or in process) with a total absolute value change order percentage (Credits plus deducts) over twenty percent (20%) of original contract value to insure that the changes followed the Building Program policy of seeking Board approval before execution of the change. And further, that fair and reasonable pricing was obtained. The Inspector General should then report the findings to the Chancellor and the Board along with any recommendations for follow up the Inspector General deems appropriate.
- **e.** The Program Manager should recommend and the District should establish a written policy and procedure that establishes a specific dollar limitation on changes to original scope on a Design Build

project and also set forth how, when and why such changes can be made. The policy and procedure needs to be distributed to all Building Program participants, including the college presidents. Bid and contract documents should be changed accordingly. Training should also be provided on how to properly utilize the new policy and procedure. As part of this new policy and procedure, and even though the law does not restrict Design Build changes to a specific dollar limitation, such controls should be imposed by the Board. Justification for Design Build changes and non-competitive procurement should be reviewed by the Program Manager and the District (Facilities Executive and Chancellor) to show a fair and reasonable price is being obtained that is beneficial to the District.

f. The District's Office of Inspector General should investigate all changes/change orders issued to date in the Energy Program that are individually or in the aggregate greater than fifty (50%) of a specific project's original contract amount to assure that fair and reasonable prices were obtained. The Inspector General should then report the findings to the Chancellor and the Board along with any recommendations for follow up the Inspector General deems appropriate.

Proper Role of Shared Governance in the Building Program.

a. The District should establish policies and procedures to define Shared Governance's proper role in the planning and preconstruction phases of all projects. In addition, the District should preclude Shared Governance's involvement in Building Program issues after the Board of Trustees' approves a project and a project's budget.

Energy Program: Observations.

a. Before any additional renewable energy or distributed generation projects are approved, the financial payback to be achieved from each energy project should be reported in detail to the Board of

Trustees and the Citizens' Oversight Committee. A number of these energy projects in the Building Program have not been started and should be put on hold until the financial benefit and impacts are fully assessed, quantified, justified and understood.

- **b.** Separately, District Staff should measure and report actual energy costs to see if the new college central plants are operating as planned and, if not, a plan of corrective action should be undertaken.
- **c.** Further, each college should be required by the District to set aside "fenced funds" (e.g., designated and restricted) for use only for maintenance of central plants. And, central plant maintenance plans should be reviewed annually and approved by District Staff.
- **d.** Install a permanent meter to monitor individual building usage and ensure that the individual buildings are operating in a cost-effective manner (Monitoring Based Commissioning (MBCx)). This will provide specific information regarding building performance and should help to reduce energy use, improve indoor air quality, occupant comfort, and productivity.

District-Wide Technology Initiatives.

a. The District should require the Program Manager to ensure that this part of the Building Program (with a value of \sim \$126M) is being managed with the same rigor as the remainder of the Building Program. At present, it does not appear to be so.

Design Management.

a. The District's Office of Inspector General should audit Design Bid Build projects where there was a termination for convenience or work was performed under a settlement to avoid the 10% change order limit. If the changes were driven by Architect/Engineer error and/or omission, the Office of Inspector

General should make recommendations to the Chancellor and Office of General Counsel and such design firms should be dealt with accordingly.

- **b.** District Staff should institute an evaluation of the Architects and Engineers currently involved in the Building Program and the results of this evaluation should be taken into account for new projects.
- c. The Office of Inspector General should audit all current College Project Manager firms to measure if they are ensuring that the Architects are incorporating standard guidelines such as Design Guide and Guide Spec into the designs. The District Staff should also insure that the Architect's and College Project Manager's fee arrangements and compensation structure do not incentivize more owner directed change orders, rather than hold the line on changes.
- **d.** The Panel was unable to reach that portion of the Chancellor's Charge that asked the Panel to compare the overall compensation for vendors in the Building Program such as Architects, College Project Managers, Program Manager, etc., to other programs of comparable size. The Panel suggests that the Office of Inspector General undertake such a review, with a particular focus on how such vendors are compensated for changes to the underlying construction projects and contracts to which their respective services relate

Construction Management.

- **a.** The Office of Inspector General should conduct an audit at a time the Chancellor and/or Inspector General deem appropriate into how such a magnitude of owner driven change orders could have taken place.
- **b.** The Office of Inspector General should conduct an audit of all College Project Managers' performance over the past four years regarding, without limitation: (1) their compensation structure; (2) involvement in the change order process; (3) reporting requirements to the Program Manager and District level personnel; and (4) whether

recommendations are made routinely to track down and recover funds from responsible parties on troubled projects.

Hard v. Soft Costs.

a. The Program Manager should continue to report on the percentage of soft costs to hard costs to the District. If a variance between actual versus projected soft costs is detected, corrective action should be implemented to insure soft cost targets are achieved through the completion of the Building Program. Also, any such variations should be reported to the District's Citizen's Oversight Committee.

Compliance with Proposition 39.

- **a.** The Board should promulgate specific policies and procedures applicable to District Staff, and the staff at every college within the District, placing specific reporting and oversight obligations on them to ensure compliance with the requirements of Proposition 39, as well as requiring specific annual educational training on these issues.
- **b.** The Program Manager, and every College Project Manager, should have specific contract obligations placed in their contracts to track, account, and report on Proposition 39 Bond Funds; additionally, specific annual training on these issues should be required while doing business with the District.
- c. Consider instituting a new District position: "District Bond Compliance Officer," charged with the full time responsibility and broad authority to proactively communicate, monitor and enforce compliance with Proposition 39 rules. Note: It appears that a position "Agency Compliance Manager" has been tentatively created by the District and is circulating in 'draft' form. This process should be moved forward, adopted and implemented; however, the authority and responsibility of this position should be strengthened beyond that which is currently described for the "Agency Compliance Manager."

District Citizens' Oversight Committee.

- **a.** Formalize and provide appropriate support to allow the District Citizens' Oversight Committee to fulfill its mandate. Review and revise appointment criteria; formalize the process and procedures for Committee activities; and provide part time or full time dedicated staff as needed.
- **b.** Require and ensure more rigor in attendance. Reduce college members on the Committee from 9 to 1. The Committee needs to be comprised of people who attend, are engaged, and can affect appropriate program oversight to ensure that the District is fulfilling its commitments made to the electorate in each of the local bond elections. Encourage citizens with significant bond fund experience and/or public works experience to serve. All Committee members with poor attendance records should be held accountable by the District and dismissed. Members at large should be censored for poor attendance. Limited terms of appointment should be established for all members. The Board of Trustees should monitor compliance.

Facilities Executive Director Position.

- a. Hire an Executive Director who is a seasoned leader and who has significant experience with the management of very large enterprises. The person should have experience managing a program of similar magnitude. Experience working with a multiple programs within a multibillion dollar public program is critical to the success of the future Executive Director. A strong leader in the Executive Director's position is essential to the successful oversight, guidance, and completion of the Building Program. Furthermore, the new Executive Director should have the experience and ability to guide the best selection of the next Program Manager.
- **b.** The Panel has been provided with a mailing list and an outline of a proposed outreach program for potential candidates for this position.

The Panel encourages the District to pursue its search along the line it is taking as shown therein and as set forth in this Report.

The Building Program Manager.

- **a.** The current Program Manager should be retained until a new Executive Director is in place to oversee the program management selection process.
- **b.** If a new program management company is ultimately selected, key staff from the current Program Manager should be retained to ensure a coordinated transition.

Impact of New Facilities on Long Term Operating Budgets.

- **a.** District Staff should prepare a brief for the Board of Trustees on the costs and sources of funds needed to support M&O and appropriate capital renewal requirements to insure the new program facilities will perform their intended function into the future. With every new or renovated building proposed to the Board of Trustees, a total cost of ownership analysis should be included that projects the District's budgeted operating costs for M&O, capital renewal, and staffing.
- **b.** District Staff should direct and oversee the transfer of funds from Utility accounts to M&O accounts to reflect savings at each college. If college M&O staff does not see energy savings materialize, then added funds will need to be identified from other sources.
- **c.** District Staff should participate in the APPA FPI survey that is done annually to benchmark M&O costs in higher education.
- **d.** District Staff should establish a maintenance funding floor; a minimum level of maintenance funding that each college president is required to spend on M&O, with fenced money that cannot be diverted for other non-facilities expenses.

Ethical Considerations.

- **a.** Whatever final Policy and Procedures the District adopts, the District's Office of General Counsel should ensure that they are a part of every contract with every vendor doing business with the District.
- **b.** The District's Office of General Counsel should institute regular training (at least annually) at the District and college levels regarding such Policies and Procedures for everyone involved in the Building Program. Such training should be mandatory.

[END OF SUMMARY]